



COMMERCE COMMISSION

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**Clarification (No. 4) of the Determination on the Multi-party Application for  
Determination on the Local and Cellular Telephone Number Portability  
Designated Multinetwork Services**

**Decision No. 612**

Clarification under section 58 of the Telecommunications Act 2001 ('the Act') of Decision 554:

**TELECOM NEW ZEALAND LIMITED  
VODAFONE NEW ZEALAND LIMITED  
TELSTRACLEAR LIMITED  
WORLDXCHANGE LIMITED  
COMPASS COMMUNICATIONS LIMITED  
CALLPLUS LIMITED  
IHUG LIMITED  
WOOSH WIRELESS LIMITED  
AIRNET NEW ZEALAND LIMITED  
ORCON INTERNET LIMITED**

**The Commission:** Dr Ross Patterson  
Anita Mazzoleni  
Donal Curtin

**Summary of Clarification:** The Commission is clarifying Decision 554 under section 58 of the Act to address issues arising from the Equivalent Service criteria in the Network Terms of Decision 554 and to update Decision 554 to take account of the repeal of section 61, and the introduction of Subpart 2 of Part 4A, of the Telecommunications Act 2001.

**Date of Clarification:** 20 December 2007

**NO PARTS OF THIS REPORT ARE CONFIDENTIAL**

## Introduction

1. On 31 August 2005, the Commission issued Decision 554 ('the Determination') setting out the industry requirements for the provision of the local and cellular telephone number portability services ('the Number Portability Services').
2. The Determination has been clarified by the Commission in Decisions 579, 600 and 605.
3. On 1 April 2007, the Number Portability Services were implemented and end-users began porting both local and cellular numbers between service providers. Shortly after 1 April 2007, the Commission became aware that end-users with a cellular number commencing with the network access codes 027 or 029 who wanted to port their number to a pre-pay service on the Vodafone network were unable to do so. At that time Vodafone advertised on their website that end-users with an 027 or 029 number:
  - must take a post-pay "on account" plan, as Vodafone are not able to offer a pre-pay plan to end-users with an 027 or 029 numbers;<sup>1</sup> and
  - are not able to receive certain services that are available to end-users with a 021 number, either in the same way or at all.<sup>2</sup>
4. In a letter dated 8 May 07 Vodafone confirmed that they were unable to in-port customers and place them on their pre-pay service but that they had implemented a solution for post-pay customers. Vodafone advised that the solution for pre-pay customers would not be implemented until November 2007, due to a number of technology and software project priorities<sup>3</sup>. This date has since slipped to early 2008<sup>4</sup>.
5. On 9th July 2007 the Commission wrote to the Telecommunications Carriers' Forum (copied to all parties to the LMNP Determination) advising that any differences in the services and features offered to customers with ported numbers in comparison with customers with non-portable numbers on a party's network would fail to promote competition. The Commission considers that such discrimination creates a barrier to customers wishing to port their number to the extent that the success of Number Portability in New Zealand would be undermined.
6. The Commission has always considered services, such as pre-pay services, were encapsulated within the term "services and features" expressed in relation to the Equivalent Service criteria of the Network Terms of Decision 554. Nonetheless, the Commission advised the TCF that it intended to reinforce this by clarifying Decision 554 to ensure that parties to the Determination act in a non-discriminatory manner in delivering equivalent services and features to their customers irrespective of their number.

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<sup>1</sup> <http://www.vodafone.co.nz/personal/plans-services/transfers/number-portability/byo-mobile-number.pdf>

<sup>2</sup> <http://www.vodafone.co.nz/personal/plans-services/transfers/number-portability/vodafone-027-or-029.jsp>

<sup>3</sup> Vodafone NZ, Stone, Letter, 30 May 2007, p1.

<sup>4</sup> Vodafone NZ, Submission on draft Decision 612, 24 September 2007, p9.

7. In addition to the issues arising in relation to Equivalent Service, the Commission also considered the implications of the enactment of the Telecommunications Amendment Act (No. 2) 2006, (the “Amending Act”). In particular, the Commission investigated the impact of the repeal of section 61 and the introduction of the new enforcement powers for both the Commission and the parties to the determination in relation to “a designated multinet network service determination made under section 39”<sup>5</sup>. In particular, section 156P of Subpart 2 of Part 4A gives the Commission and the parties to Decision 554, the right to enforce Decision 554 by filing it in the prescribed form in the Wellington Registry of the High Court.

### **Jurisdiction**

8. Under section 58(1) of the Telecommunications Act 2001 (“the Act”), the Commission may amend a Determination for the purpose of making a clarification if:
- at any time the Commission, on its own initiative or on the application of any person, considers that a determination requires clarification; and
  - no appeal is pending in respect of the determination.<sup>6</sup>
9. Under section 19(c) of the Act, the Commission is required to make the decision that the Commission considers best gives, or is likely to best give, effect to the purpose set out in section 18.
10. The Commission considers that the determination requires clarification. No appeal is pending in respect of the determination.

### **Analysis of the Clarification**

#### *Equivalent Service*

11. Telecom and Vodafone are the only mobile service providers that provide their customers with a mobile pre-pay service option. Customers in New Zealand place considerable value on the pre-pay service, with 68% of all mobile subscribers in New Zealand preferring the pre-pay service.<sup>7</sup>
12. Telecom pre-pay customers, who wish to move to the Vodafone pre-pay mobile service can do so if they accept a non-ported 021 number. They cannot retain their 027 number.
13. According to Vodafone, a technology upgrade is required to enable customers to port to Vodafone’s pre-pay service. The technology upgrade is not scheduled to occur until early 2008.<sup>8</sup>
14. The Explanatory Statements to the LMNP and Network Terms of the Determination state “LMNP is a project comprising two sets of terms and conditions, the LMNP Terms and the Network Terms. Therefore, for a party to deliver an LMNP solution in compliance with the Determination, the solution must comply with both the LMNP Terms and the Network Terms.”

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<sup>5</sup> See section 156N of the Telecommunications Act 2001.

<sup>6</sup> There is no appeal pending in respect of Decision 554.

<sup>7</sup> Commerce Commission, Review of cellular mobile market entry issues, 10 Oct 06, p16.

<sup>8</sup> Vodafone NZ, Submission on draft Decision 612, 24 September 2007, p9.

15. Clause 2.2 of the LMNP Terms sets out the “Objectives” one of which is to “Set out procedures between Service Providers to enable Customers to retain their Number when transferring from one Service Provider to another...”
16. The Commission is of the view that the term “services and features” used within the Equivalent Service criteria of Clause 14 of the Network Terms includes a pre-pay service. However it has become clear during the course of the Commission’s enquiries that there is a need to clarify, for the avoidance of any doubt, the terminology used in the Equivalent Service criteria.
17. Within the Appendices of the LMNP terms there are a number of tables which distinguish between pre-pay and post-pay (or non pre-pay) actions as follows:
  - Table 1 - “Port Request Fields” splits the required items for Mobile Port Requests into pre-pay and post-pay.
  - Table 2 – “Service Levels” splits Simple and Complex Mobile Ports by virtue of pre-pay or post-pay and has different timeframes of completion for each.
  - Table 4 – “Port Request Tests” refers to pre-pay in relation to tests for Account Number and Handset Reference fields.
  - Table 5 – “Checks performed by the Losing Service Provider at step PR5” sets out mandatory checks for non-prepay and pre-pay in relation to Account Number and Handset Reference respectively.
18. The Commission notes that there are clearly different tests and checks laid out within the tables in respect of pre-pay and post-pay that must be considered and required of a Service Provider, within the LMNP Terms when porting numbers.
19. Further, clause 2.1 of the Network Terms refers not only to technical interconnection arrangements but also operational arrangements and business rules and processes related to Porting. There is express reference to compliance with principles and processes consistent with section 18 of the Act.
20. Clause 14.1 of the Network Terms ensures that any differences in quality, reliability, services and features in relation to a ported number and a similar service provided in relation to a non-porting number:
  - will not be apparent to a Customer; or
  - if they are apparent to a Customer, will not affect the Customer’s choice of Service Provider.
21. The Commission’s view is that an inability to access the pre-pay service would be apparent, and, given that a significant number of New Zealand’s mobile users have a preference for the pre-pay service, would affect a customer’s choice of service provider.
22. In light of the reasons set out above, the Commission considers that there is a need to clarify the Determination to record this interpretation. Appendix 1 of this Clarification contains the amendments to the Network Terms necessary to clarify the interpretation, and to resolve any misunderstanding, of Clause 14 of the Network Terms.

## Submissions

23. The Commission invited submissions from interested parties on the draft clarification Decision 612. Submissions were received from Vodafone and Telecom.
24. Vodafone and Telecom both agreed with the proposal to delete the references to section 61 of the Act and to replace those references with the new enforcement powers.
25. Vodafone noted that the regulated service that is subject to Decision 554 is a service for providing number portability services between service providers, and not services offered by service providers to retail customers<sup>9</sup>; and submitted that the Commission's proposed amendments to the Network Terms amounted to regulation at the retail level, rather than between service providers<sup>10</sup>. It argued that is outside the authority afforded to the Commission by Part 2 of the Act, on the basis that pre-pay contracts are a payment plan option offered to customers. Telecom took a similar approach<sup>11</sup>.
26. The Commission is not regulating the retail relationships that service providers have with their customers. The clarification deals with the technology issue that is preventing the effective and efficient implementation of number portability between service providers.
27. The purpose of Part 2 of the Act is to promote competition in telecommunications markets for the long-term benefit of end-users. The Commission identified that the absence of number portability hindered competition, as customers were reluctant to change telecommunication service providers due to the associated switching costs<sup>12</sup>. A significant benefit resulting from the Determination was that it removed impediments to the development of a competitive telecommunications markets by allowing customers to retain their telephone number, thereby reducing the associated switching costs. In this case the Commission considers competition is promoted for the long term benefit of end-users by allowing customers to switch telecommunications service providers while retaining the same telephone number.
28. Vodafone further submitted that the Act encourages self regulation and that the LMNP and Network Codes were originally drafted (with the terms largely agreed by the industry) by the TCF before seeking the Commission's approval. Approval by the Commission ensured that the Codes would be enforceable as a Commission Determination. Vodafone argues that as the industry agreed on the meaning of Equivalent Service, the Commission should not unilaterally amend the term "services and features".
29. The Commission is empowered to clarify the meaning of the Equivalent Service Criteria under section 58 of the Act. Any agreement reached by the industry on Equivalent Service cannot fetter the exercise of the Commission's discretion under section 58 in a case where the Commission considers the determination requires clarifying, and the exercise of that discretion promotes competition for the long term benefit of end-users.

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<sup>9</sup> Vodafone NZ, Submission on draft Decision 612, 24 September 2007, p2.

<sup>10</sup> Vodafone NZ, Submission on draft Decision 612, 24 September 2007, p3.

<sup>11</sup> Telecom, Submission on draft Decision 612, 21 September 2007, p2.

<sup>12</sup> Commerce Commission, Determination on the multi-party application for determination of 'local number portability service' and 'cellular number portability service' designated multinet services, 31 August 2005. p13.

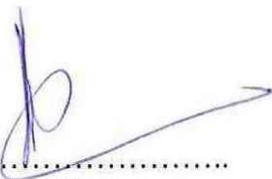
### **The Clarification for Equivalent Service**

30. This decision clarifies the Determination, to ensure that all parties act in a non-discriminatory manner and provide Equivalent Service in regard to the services and features offered to customers with Ported Numbers and Non-ported numbers on their networks. The Commission's clarification of Clause 14 of the Network Terms is set out in Appendix 1.
31. The Commission considers that the decision will promote competition by emphasising that an acceptable LMNP solution is one that does not create a barrier for customers to port their number and reinforces that ported customers should not be treated differently to the Gaining Service Provider's existing customers.
32. The Commission requires parties to the Determination to be compliant with this Clarification no later than the 1 April 2008.

### **The Clarification for New Enforcement Powers**

33. The Commission also wishes to clarify the LMNP and Network Terms of Decision 554 to remove all references to the now repealed "section 61" of the Telecommunications Act 2001 and to replace it with section 156P or a more generic reference to Subpart 2 of Part 4A of the Telecommunications Act 2001.
34. In addition, the Commission is clarifying a number of clauses of the LMNP and Network Terms (in Appendix 2) to preserve, for the avoidance of doubt, the rights of the parties and the Commission to take any enforcement action under Subpart 2 of Part 4A of the Telecommunications Act 2001.
35. Under section 19(c) of the Act, the Commission considers that these clarifications best give effect to the purpose set out in section 18 of the Act because they expressly recognise the changes that were introduced by the Amending Act to the statutory power to enforce a designated multinet service determination under the Telecommunications Act 2001.

Signed by:



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Dr Ross Patterson  
Telecommunications Commissioner



COMMERCE COMMISSION

APPENDIX 1

Clarification in relation to Equivalent Service matters

Item No.	Clause reference in the Network Terms	Wording in the Terms	Clarification
1.	4.2: Non-Voice Services	<p>In the Network Terms, unless the context requires otherwise:</p> <p>Non-Voice Services</p> <p>Means those services which are not Voice Services and in respect of which interconnection arrangements exist between the parties.</p>	<p>Non-Voice Services</p> <p>Means:</p> <p>(a) those services which are not Voice Services and in respect of which interconnection arrangements exist between the parties; and</p> <p>(b) those services and associated features (including pre-pay and post-pay services) provided by the parties to end-users.</p>
2.	4.2: Voice Services	<p>In the Network Terms, unless the context requires otherwise:</p> <p>Voice Services</p> <p>Means those voice services and associated features provided or initiated during call setup or call duration, for which interconnection arrangements exist between the parties,</p>	<p>Voice Services</p> <p>Means:</p> <p>(a) those voice services and associated features provided or initiated during call setup or call duration, for which interconnection arrangements exist between the parties; and</p> <p>(b) those services and associated features (including pre-pay and post-pay services) provided by the parties to end-users.</p>

Item No.	Clause reference in the Network Terms	Wording in the Terms	Clarification
3.	14 Equivalent Service  14.1 Definition	A service provided in relation to a Ported Number is an Equivalent Service, if (and only if) any differences in quality, reliability, services or features between it and a similar service provided in relation to a non-Ported Number: ...	A service provided in relation to a Ported Number is an Equivalent Service, if (and only if) any differences in quality, reliability, services or features (including pre-pay and post-pay services) between it and a similar service provided in relation to a non-Ported Number:
4.	Clause 14.2.3 Criterion 3- Services and Features	The LMNP solution deployed by a Carrier must not prevent Customers with Ported Numbers from being offered the same services and features as those provided to Customers on that Carrier's Network with non-Ported Numbers.  This requirement applies to both incoming and outgoing Voice Services.	The LMNP solution deployed by a Carrier must not prevent Customers with Ported Numbers from being offered the same services and features (including pre-pay and post-pay services) as those provided to Customers on that Carrier's Network with non-Ported Numbers.  This requirement applies to both incoming and outgoing Voice Services.
5.	Clause 14.3.1 Criterion 1 – Services and Features	The LMNP solution deployed by a Carrier must not prevent Customers with Ported Numbers from being offered the same services and features as those provided to Customers on that Carrier's Network with non-Ported Numbers.  This requirement applies to both incoming and outgoing non-Voice Services.	The LMNP solution deployed by a Carrier must not prevent Customers with Ported Numbers from being offered the same services and features (including pre-pay and post-pay services) as those provided to Customers on that Carrier's Network with non-Ported Numbers.  This requirement applies to both incoming and outgoing non-Voice Services.



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APPENDIX 2

Clarification in relation to New Enforcement Powers

Item No.	Clause reference in The LMNP Terms	Wording in the Terms	Reason for the clarification	Clarification
1.	Table of Contents 7.7 Section 61	Section 61	The reference to section 61 in the table of contents is deleted given that section 61 is now repealed.	Subpart 2, Part 4A
2.	2.1.5	In the event of any inconsistency between these LMNP Terms and any legislation or determinations of regulatory bodies, then such legislation or determinations will prevail, to the extent of the inconsistency.	A new sentence is added to clarify that the Determination does not override Subpart 2 of Part 4A of the Telecommunications Act.	In the event of any inconsistency between these LMNP Terms and any legislation or determinations of regulatory bodies, then such legislation or determinations will prevail, to the extent of the inconsistency. For the avoidance of doubt, nothing in this determination ousts the jurisdiction of the Commission to enforce the determination in accordance with Subpart 2 of Part 4A of the Telecommunications Act.
3.	2.1.9 - Scope	Nothing in these LMNP Terms shall prevent any party from enforcing these LMNP Terms in accordance with section 61 of the	This term is clarified to take into account the enactment of Subpart 2 of Part 4A of the Telecommunications Act.	Nothing in these LMNP Terms shall prevent any party, or the Commission, from enforcing these LMNP Terms in accordance with Subpart 2 of

Item No.	Clause reference in The LMNP Terms	Wording in the Terms	Reason for the clarification	Clarification
		Telecommunications Act.		Part 4A of the Telecommunications Act.
4.	4.1.3 – Compliance with Service Levels	Each party subject to the LMNP Terms must comply with the Service Levels. If a party fails to meet the Service Levels, the provisions set out in clauses 7.4 to 7.7 will apply.	A new sentence is added to clarify that the Determination does not override Subpart 2 of Part 4A of the Telecommunications Act.	Each party subject to the LMNP Terms must comply with the Service Levels. If a party fails to meet the Service Levels, the provisions set out in clauses 7.4 to 7.7 will apply. Despite clauses 7.4. to 7.7, a party to the determination, or the Commission, may enforce the determination in accordance with Subpart 2 of Part 4A of the Telecommunications Act.
5.	7.1 - Clarification and Reconsideration of the LMNP Terms	The LMNP Terms are subject to Subpart 5 of Part 2 of the Telecommunications Act.	This term is clarified to take into account that the LMNP Terms are now subject to Subpart 2 of Part 4A of the Telecommunications Act.	The LMNP Terms are subject to Subpart 5 of Part 2, and Subpart 2 of Part 4A of the Telecommunications Act.
6.	7.2.2 (b) - Telecommunications Act 2001	(b) Appeals against Commerce Commission determinations and proceedings for enforcement of Commerce Commission determinations to the High Court under subpart 5 of Part 2 of the Telecommunications Act; and ...  If the Initiator submits a dispute for expert determination or arbitration, that will not preclude the other parties	This term is clarified to take into account the enactment of Subpart 2 of Part 4A of the Telecommunications Act.	(b) Appeals against Commerce Commission determinations under Subpart 5 of Part 2 and proceedings for enforcement of Commerce Commission determinations to the High Court under Subpart 2 of Part 4A of the Telecommunications Act; and  If the Initiator submits a dispute for expert determination or

Item No.	Clause reference in The LMNP Terms	Wording in the Terms	Reason for the clarification	Clarification
		to the dispute from pursuing any rights they may have under the Telecommunications Act.		arbitration, that will not preclude the other parties to the dispute, or the Commission, from pursuing any rights under the Telecommunications Act.
7.	7.2.7- Court Proceedings	All the provisions in this clause 7.2 as to dispute resolution shall apply, irrespective of whether any party to the determination of which they form part has filed the determination in the High Court as provided for in section 61 of the Telecommunications Act.	This term is clarified to take into account the enactment of Subpart 2 of Part 4A of the Telecommunications Act.	All the provisions in this clause 7.2 as to dispute resolution shall apply, irrespective of whether any party to the determination of which they form part, or the Commission, has filed the determination in the High Court as provided for in section 156P of the Telecommunications Act.
8.	7.7- Section 61	<p>Section 61</p> <p>For the avoidance of doubt, the procedures set out in clauses 7.2 to 7.6 are additional to, and not exclusive of, any other rights a party may have under the Telecommunications Act, at law or in equity and nothing in clauses 7.2 to 7.6 will prevent any party from exercising its right to enforce compliance with the Service Levels, or the Determination generally, in accordance with section 61 of the Telecommunications Act.</p>	This term is clarified to take into account the enactment of Subpart 2 of Part 4A of the Telecommunications Act.	<p>Subpart 2 of Part 4A</p> <p>For the avoidance of doubt, the procedures set out in clauses 7.2 to 7.6 are additional to, and not exclusive of, any other rights a party, or the Commission, may have under the Telecommunications Act, at law or in equity and nothing in clauses 7.2 to 7.6 will prevent any party, or the Commission, from exercising its right to enforce compliance with the Service Levels, or the</p>

<b>Item No.</b>	<b>Clause reference in The LMNP Terms</b>	<b>Wording in the Terms</b>	<b>Reason for the clarification</b>	<b>Clarification</b>
				Determination generally, in accordance with Subpart 2 of Part 4A of the Telecommunications Act.

<b>Item No.</b>	<b>Clause reference in The Network Terms</b>	<b>Wording in the Terms</b>	<b>Reason for the clarification</b>	<b>Clarification</b>
9.	3.1.2	In the event of any conflict or inconsistency between the Network Terms and any New Zealand legislation or determination of regulatory bodies, then such legislation or determinations will prevail, to the extent of the inconsistency.	A new sentence is added to clarify that the Determination does not override Subpart 2 of Part 4A of the Telecommunications Act.	In the event of any conflict or inconsistency between the Network Terms and any New Zealand legislation or determination of regulatory bodies, then such legislation or determinations will prevail, to the extent of the inconsistency. For the avoidance of doubt, nothing in this determination ousts the jurisdiction of the Commission to enforce the determination in accordance with Subpart 2 of Part 4A of the Telecommunications Act.
10.	3.1.6 - Scope	Nothing in these Network Terms shall prevent any party from enforcing these Network Terms in accordance with section 61 of the Telecommunications Act.	This term is clarified to delete the reference to section 61 and replace it with Subpart 2 of Part 4A of the Telecommunications Act.	Nothing in these Network Terms shall prevent any party, or the Commission, from enforcing these Network Terms in accordance with Subpart 2 of Part 4A of the Telecommunications Act.

Item No.	Clause reference in The Network Terms	Wording in the Terms	Reason for the clarification	Clarification
11.	6.2 – Compliance with Service Levels	Each party to the Network Terms must comply with the Service Levels, including the requirements for Equivalent Service. (See clause 14).	A new sentence is added to clarify that the Determination does not override Subpart 2 of Part 4A of the Telecommunications Act.	Each party to the Network Terms must comply with the Service Levels, including the requirements for Equivalent Service. (See clause 14). Nothing in this Determination prevents the Commission, or any party to the Determination, from enforcing the Service Levels and the Determination in accordance with Subpart 2 of Part 4A of the Telecommunications Act.
12.	14.5.5 - Exemption	For the avoidance of doubt, the procedures set out in clause 14.5 are additional to, and not exclusive of, any other rights a party may have under the Telecommunications Act, at law or in equity and nothing in clause 14.5.3 to 14.5.4 will prevent any party from exercising its right to enforce compliance with the Equivalent Service criteria in accordance with section 61 of the Telecommunications Act.	This term is clarified to delete the reference to section 61 and replace it with Subpart 2 of Part 4A of the Telecommunications Act.	For the avoidance of doubt, the procedures set out in clause 14.5 are additional to, and not exclusive of, any other rights a party may have under the Telecommunications Act, at law or in equity and nothing in clause 14.5.3 to 14.5.4 will prevent any party from exercising its right to enforce compliance with the Equivalent Service criteria in accordance with Subpart 2 of Part 4A of the Telecommunications Act.
13.	15.7 Applications to	New Clause 15.7.2	A new sentence is added to	Nothing in clause 15.7.1

Item No.	Clause reference in The Network Terms	Wording in the Terms	Reason for the clarification	Clarification
	the Commerce Commission for Exemptions		clarify that the Determination does not override Subpart 2 of Part 4A of the Telecommunications Act.	prevents the Commission, or any party to the Determination, from enforcing the Determination in accordance with Subpart 2 of Part 4A.
14.	15.8 Right of Carrier to Apply to the Commerce Commission	New Clause 15.8.2	A new sentence is added to clarify that the Determination does not override Subpart 2 of Part 4A of the Telecommunications Act.	Nothing in clause 15.8.1 prevents the Commission, or any party to the Determination, from enforcing the Determination in accordance with Subpart 2 of Part 4A.
15.	16.1 - Clarification and Reconsideration of the Network Terms	The Network Terms are subject to Subpart 5 of Part 2 of the Telecommunications Act.	This term is clarified to take into account the enactment of Subpart 2 of Part 4A of the Telecommunications Act.	The Network Terms are subject to Subpart 5 of Part 2 and Subpart 2 of Part 4A of the Telecommunications Act.
16.	16.2.2 Telecommunications Act 2001	<p>(b) Appeals against Commerce Commission determinations and proceedings for enforcement of Commerce Commission determinations to the High Court under subpart 5 of Part 2 of the Telecommunications Act; and</p> <p>If the Initiator submits a dispute for expert determination or arbitration, that will not preclude the other parties to the dispute from pursuing any rights they may have under the</p>	This term is clarified to take into account the enactment of Subpart 2 of Part 4A of the Telecommunications Act.	<p>(b) Appeals against Commerce Commission determinations under Subpart 5 of Part 2 and proceedings for enforcement of Commerce Commission determinations to the High Court under Subpart 2 of Part 4A of the Telecommunications Act; and</p> <p>If the Initiator submits a dispute for expert determination or arbitration, that will not preclude the other parties to the</p>

Item No.	Clause reference in The Network Terms	Wording in the Terms	Reason for the clarification	Clarification
		Telecommunications Act.		dispute, or the Commission, from pursuing any rights under the Telecommunications Act.
17.	16.2.7 - Court Proceedings	All the provisions in this clause 16.2 as to dispute resolution shall apply, irrespective of whether any party to the determination of which they form part has filed the determination in the High Court as provided for in section 61 of the Telecommunications Act.	The reference to section 61 is deleted and replaced by section 156P of the Telecommunications Act.	All the provisions in this clause 16.2 as to dispute resolution shall apply, irrespective of whether any party to the determination of which they form part, or the Commission, has filed the Determination in the High Court as provided for in section 156P of the Telecommunications Act.